

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
TACOMA DIVISION

In re

**NELSON M MELO and SANDRA K.  
MELO**

Debtors.

Case No. 17-43644-BDL

**RESPONSE TO OBJECTION FILED BY  
MORGAN MELO**

Claimant Marten Transport Ltd. (“Marten”), which submitted Claim Number 4-1 in this bankruptcy proceeding, hereby responds to the Objection filed by Morgan Melo.

**I. MORGAN MELO LACKS STANDING TO OBJECT**

Morgan Melo purports to object to Marten’s claim on behalf of debtors Nelson Melo and Sandra Melo. However, Morgan Melo is not a debtor in the proceeding. While Morgan Melo may be a Defendant in an adversary proceeding brought by the U.S. Trustee, that does not give her standing to object to the claims to the merits of the proceeding itself. Moreover, Morgan Melo particularly lacks standing to assert the grounds in the objection, which are based primarily on an argument that the debtors Nelson Melo and Sandra Melo were not parties to the contract with Marten, or otherwise liable to Marten.

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Without waiving these standing issues, Marten responds to the specific grounds raised in the objection as follows:

**II. RESPONSE TO INDIVIDUAL OBJECTIONS**

**Objection 1:**

Morgan Melo is a party in interest in this case.

**Response:**

As noted above, while Morgan Melo may be a Defendant in an adversary proceeding brought by the U.S. Trustee, based on alleged fraudulent property transactions with the debtors, Morgan Melo's status as an Adversary Defendant does not confer standing upon her to object to Marten's claim.

**Objection 2:**

Marten Transport filed a Proof of Claim in this case, Claim Number 4-1, on August 3, 2017, in the amount of \$770,271.17.

**Response:**

Undisputed.

**Objection 3:**

Upon review of Claim Number 4-1, Marten Transport was a party to a contract with TreCore Construction Management, LLC, a Washington Limited Liability Company ["TreCore"], which forms the basis of the claim asserted in Proof of Claim 4-1.

**Response:**

Undisputed.

**Objection 4:**

The debtors are not parties to the contract between Marten Transport and TreCore.

**Response:**

Disputed. As detailed in the attached Declaration of James Hinnendael, the Executive Vice President and Chief Financial Officer of Marten, the debtors' conduct, and the conduct of

1 Nelson Melo specifically, demonstrated a failure to observe corporate formalities and corporate  
2 separateness between debtors and TreCore, and further constituted fraudulent representations to  
3 Marten and its subcontractors, all of which justifies Marten's claim in this proceeding.

4 **Objection 5:**

5 Marten Transport has no legal or equitable basis for a claim to be allowed against the  
6 debtors.

7 **Response:**

8 Disputed. As detailed in the attached Declaration of James Hinnendael, the Executive  
9 Vice President and Chief Financial Officer of Marten, the debtors' conduct, and the conduct of  
10 Nelson Melo specifically, demonstrated a failure to observe corporate formalities and corporate  
11 separateness between debtors and TreCore, and further constituted fraudulent representations to  
12 Marten and its subcontractors, all of which justifies Marten's claim in this proceeding.

13 **Objection 6:**

14 There is no evidence in the Proof of Claim to verify the debtors are liable to Marten  
15 Transport in the amount of \$770,271.17.

16 **Response:**

17 Disputed. As detailed in the attached Declaration of James Hinnendael, the Executive  
18 Vice President and Chief Financial Officer of Marten, the debtors' conduct, and the conduct of  
19 Nelson Melo specifically, demonstrated a failure to observe corporate formalities and corporate  
20 separateness between debtors and TreCore, and further constituted fraudulent representations to  
21 Marten and its subcontractors, all of which justifies Marten's claim in this proceeding.

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1           WHEREFORE, Marten respectfully requests that this Court approve Marten's claim, or,  
2 in the alternative, set a further hearing on the merits of the claim.

3           DATED: March 26, 2019.  
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5   LARKINS VACURA KAYSER LLP

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